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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

PINEVILLE BRUNSWICK DEVELOPMENT ASSOCIATES L.P., Plaintiff, v. TARGET CORPORATION, Defendant.	Civil Action No. VERIFIED COMPLAINT AND JURY DEMAND (Filed Electronically)

VERIFIED COMPLAINT AND JURY DEMAND

Plaintiff Pineville Brunswick Development Associates L.P. ("Pineville"), by its undersigned counsel, files this Verified Complaint against Defendant Target Corporation ("Target") and in support thereof avers as follows:

JURISDICTION AND VENUE

1. Subject matter jurisdiction exists pursuant to 28 U.S.C. § 1332(a)(1). The amount in controversy exceeds the sum or value of $75,000.00, exclusive of interest and costs, and is between citizens of different states.

2. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2), because a substantial portion of the events giving rise to the causes of action described herein occurred in the District of New Jersey, and because the development site at issue is located in South Brunswick, New Jersey.

PRELIMINARY STATEMENT

3. Plaintiff Pineville is a real estate development company that currently owns a portion of property known as "Heritage Square Shopping Center," a large retail complex in South Brunswick, New Jersey. Pineville has spent the past fifteen years developing the property. The first phase of development involved, among other things, the sale of a portion of the property to Defendant Target, the construction of a Target store, and the construction and leasing of other buildings to retailers such as Best Buy and Staples.

4. Pineville and Target entered into an Operation and Easement Agreement (the "OEA" or "Agreement") regarding the orderly operation of the shopping center, which included a site plan and certain terms and conditions relating to the future "Phase II" development of the remainder of the shopping center.

5. The Phase II development required Pineville to obtain a zoning change to permit retail uses. Pineville spent over five years and hundreds of thousands of dollars attempting to obtain the required zoning change to permit retail uses in Phase II. While pursuing zoning approvals, Pineville developed plans for a supermarket to be constructed on the property as part

of Phase II. Significantly, under the OEA between Pineville and Target, the only retail uses that were *not* permitted for the Phase II development were expressly listed as "excluded uses"—and supermarkets and food stores were not on that list.

6. Pineville had extensive discussions with Target about developing the supermarket, and provided Target with numerous plans and related documents detailing the proposed supermarket development. Target reviewed and approved such plans and documents and the development of a supermarket on Phase II.

7. In reliance on Target's approvals and reassurances, Pineville proceeded to spend millions of dollars and years of effort to obtain all necessary governmental approvals to construct a supermarket, including without limitation, land use approvals and permits. This effort also involved extensive litigation against third party competitors seeking to block construction of the new supermarket by appealing various zoning decisions in favor of Pineville. Finally, in June 2016, the New Jersey Superior Court, Appellate Division, unanimously approved the South Brunswick Township Zoning Board's 2010 decision to allow the new supermarket.

8. After all these years, Pineville is prepared to build a supermarket at the Heritage Square Shopping Center property. This will be a major economic development that will help the South Brunswick community, through commercial use of a long-vacant lot, through construction and grocery jobs, and through consumer convenience. Former Mayor Frank Gambatese and the South Brunswick Zoning Board Chairman both declared the decision to allow the supermarket as a victory for the citizens of South Brunswick, through increased competition, lower prices, and convenient location.

9. Yet now, in a shocking reversal of course, Target has refused to sign the required documents. This refusal comes after Target has known for years about Pineville's efforts to

build a supermarket, and after Target has given its approval for the planned supermarket—including approvals and consents for site plans, storm water management plans, and an amendment to the OEA permitting slight variations to the height of the proposed supermarket, use of an outside sales area, and signage.

10. Surprisingly, Target has conceded to Pineville its true ulterior motive: it does not want another store in the same shopping center selling food. This Target store is not doing well financially, and it does not want added pressure from a "competitor." Another Target store was built in 2014, in nearby North Brunswick, which has impacted this Target's merchandise sales and caused it to rely more heavily on food sales. But Target has no right to object to a supermarket or any other store selling food. The OEA specifically permits Pineville to build a supermarket, because it is not one of the "excluded uses"—and furthermore, Target has previously and repeatedly approved the supermarket and all necessary variations to the OEA.

11. Pineville comes before this Court seeking preliminary and permanent injunctive relief, in the form of a declaratory judgment that it is entitled to proceed with the development—both under its agreement with Target, and because of Target's repeated promises over the years that Pineville reasonably relied upon.

12. There is good reason for this Court to grant the injunctive and declaratory relief that Pineville seeks. Target's unlawful conduct infringes on Pineville's right to develop the remaining lot, even though the development would benefit all parties: Pineville, who would develop and lease a building to the supermarket; Target, who would enjoy increased traffic through the shopping center; and the citizens of South Brunswick and surrounding communities, who would have an alternative grocery store.

13. Pineville further seeks compensatory damages caused by Target's breaches and unlawful conduct, for all of the reasons detailed below.

THE PARTIES

14. Plaintiff Pineville is a Pennsylvania limited partnership with its principal place of business located at 1288 Valley Forge Road, Suite 987, Valley Forge, Pennsylvania 19482. Pineville is comprised of three partners: (1) Pineville Brunswick Associates LP, a Pennsylvania limited partnership with a principal place of business at 1288 Valley Forge Road Suite 987, Valley Forge, Pennsylvania 19482, whose partners are, in turn, (a) Pineville Brunswick Associates, Inc., a Pennsylvania business corporation with a principal place of business at 1288 Valley Forge Road Suite 987, Valley Forge, Pennsylvania 19482, and (b) individuals investors, none of whom are citizens of Minnesota; (2) S&P Sark, LP, a Pennsylvania limited partnership with a principal place of business at 111 Presidential Boulevard Suite 209, Bala Cynwyd, PA 19004, whose partners are, in turn, two individuals who are citizens of Pennsylvania; and (3) Pineville Brunswick Development Associates LLC, a Pennsylvania limited liability company with a principal place of business at 1288 Valley Forge Road Suite 987, Valley Forge, Pennsylvania 19482, whose two individual members are citizens of New York and Pennsylvania, respectively.

15. Defendant Target is a Minnesota corporation with its principal place of business located at 1000 Nicollet Mall, Minneapolis, Minnesota 55403.

FACTUAL BACKGROUND

A. Pineville's Development of the Heritage Square Shopping Center.

16. Plaintiff Pineville is a Pennsylvania-based developer.

17. Pineville began developing Heritage Square over fifteen years ago in a project that was anticipated to be two phases over three different tracts of land.

18. In Phase I, Pineville sold a tract to Defendant Target. Also in Phase I, Pineville leased an adjacent tract where there now exists a Best Buy, Bob's Discount Furniture, Pet Smart, and other retail stores. That tract was subsequently sold to a third party (who has approved the proposed supermarket).

19. As it stands now, Heritage Square is a community shopping center with over a thousand parking spaces, and fifteen stores. It is situated along U.S. Route 1, the area's main retail corridor, and the north-south artery connecting Trenton and Northern New Jersey. Heritage Square serves South Brunswick Township, Princeton, North Brunswick Township, and surrounding communities.

20. The third tract is still vacant, and is slated for development in Phase II, completing the Heritage Square Shopping Center. Pineville owns this site, and it is undeveloped but for an access road and storm water infrastructure constructed in Phase I to service the development contemplated in both phases of the project.

B. The Operation and Easement Agreement.

21. As is typical between a shopping center developer like Pineville and a major retailer like Target, the parties entered into an Operation and Easement Agreement ("OEA") in June 2006 so that the property could be developed as an integrated shopping center. A true and correct copy of the OEA is attached hereto as Exhibit A.

22. The OEA governs, among other things, the construction of the shopping center, the architectural compatibility of the buildings, and the use of the common area, and covered a range of reciprocal easements necessary to develop Pineville's vacant tract in Phase II.

23. The OEA included a Site Plan, which showed details of the three tracts involved, such as building square footage, parking lot spaces and configurations, access roads, signage, and supporting greenspace. (*See id.* at Exhibit X.)

24. For Phase II, the parties agreed that Pineville "may perform all or a portion of site improvement work and/or the construction of building improvements on certain portions of [Pineville's vacant] Tract after commencement of the [Phase I] Work (the 'Remaining Work') which are generally depicted on the Site Plan as 'Phase II.'" (*Id.* at § 3.5.2.)

C. Target's Limited "Approval" Rights Under the OEA.

25. The parties agreed in the OEA that "The Shopping Center shall be used only for retail sales, offices, Restaurants or other permitted commercial purposes; subject however, to certain permitted uses for Phase II as set forth herein." (*Id.* at § 5.1.1.) "No use shall be permitted in the Shopping Center which is inconsistent with the operation of a first-class retail shopping center." (*Id.* at § 5.1.2.)

26. The parties further agreed to "excluded uses," which could not be part of Phase II development. (*Id.* at § 5.1.5.) None of these "excluded uses" apply to the supermarket at issue here.

27. Target has limited "reasonable approval" rights under section 3.5.3 of the OEA relating to the development of Phase II, merely ensuring that Target's facilities were not affected by Phase II construction—for storm water maintenance, driveways, and traffic control—as follows:

> Site Plans of Phase II (or any portion thereof that [Pineville] may seek to develop from time to time) sufficient to enable Target to evaluate the effect of such Phase II development on the supporting facilities located on Phase I of the Shopping Center, including the storm water maintenance facilities and the driveways and traffic control facilities, **shall be subject to Target's reasonable approval** prior to development of any such portion of Phase II. Such site plans

> shall show the finished grades, drainage scheme, location of all buildings and other related or supportive facilities (including landscaping, curb cuts, utility connections with Phase I utilities and parking lot layout) on Phase II.

(*Id.* at § 3.5.3; emphasis added.)

28. Even these limited "reasonable approval" rights for storm water maintenance, driveways, and traffic control set forth in the OEA pertain only to situations where proposed site plans of Phase II differed materially from the Site Plan attached to the OEA which depicted a proposed Phase II development. Specifically, section 3.5.3 of the OEA provided that Target was required to give its approval after that limited review, as follows:

> Notwithstanding . . . in the event that the Phase II development **is materially in accordance with the Site Plan** (which the Parties acknowledge will require a zone change from office use to retail/commercial use), **Target's review of such plans will be limited to confirming that the storm water maintenance and other utility facilities of Phase I of the Shopping Center will not be materially adversely affected and such development *shall be* approved** so long as it complies with all Governmental Requirements and is accomplished without the issuance of any variance from any Governmental Authority from its usual requirements for such retail/commercial use with respect to impervious coverages, building heights, parking requirements, utility capacity, or building setbacks from US Route 1.

(*Id.*; emphasis added.)

29. Moreover, the OEA requires Target to give prompt approval or consent within 30 days, and any disapproval must be in writing with the reasons "clearly stated." (*Id.* at § 6.5.2.)

30. And, the parties agreed that time was of the essence under the OEA. (*Id.* at § 6.14.)

D. Background: Phase II Development.

31. The Phase II site was previously zoned for office use, and had to be changed so Pineville could develop it (as was specifically contemplated in the OEA). This zoning variation request drew opposition from 426 Royal, LLC, the owner of the South Brunswick Square Mall.

32. Target never objected to this zoning variance, and never appeared at any of the hearings, even after receiving notice.

33. In 2013, the South Brunswick Planning Board voted 8-0 to give conditional approval to the application for the new supermarket. The supermarket would be housed in the retail space located across from Target on Route 1, on the vacant Phase II lot off Stouts Lane.

34. After years of zoning litigation, the New Jersey Superior Court, Appellate Division, affirmed the approval of Phase II development.

35. The arrival of the supermarket to South Brunswick would be a boon for residents who have long desired an alternative shopping market in town.

36. South Brunswick Mayor Frank Gambatese announced the Appellate Division's decision as a triumph for the community, saying, "Food is expensive, it's a big part of people's budget and we need to have choices. People want to be able to decide what store they shop at." The supermarket "finishes off that shopping center with it located on one side, Target on the other and Best Buy in the middle," Gambatese said. "This is a positive thing for this town."

E. 2010 – 2016: Target's Repeated Approvals of the Supermarket Plan.

37. Over the years, Pineville and Target had discussed Phase II development, and Target repeatedly stated its approval. Per the OEA, Target acknowledged that the Phase II site would need to be rezoned so it could be developed as a retail site, and approved of Pineville's efforts to obtain that zoning appeal.

38. Pineville believed that its Phase II plans were substantially similar to those in the OEA but agreed to prepare an amendment to the OEA to address things like building height, signage, and use of an outdoor sales area, all to accommodate the supermarket's development. Target asked for some technical details regarding such issues, and Pineville provided all

requested information, including specific plans for the proposed supermarket, which showed building height, outside sales area, and signage. Target considered Pineville's plans, including the details submitted on height of the proposed building, outside sales area, and signage, and specifically approved them.

39. In fact, on April 8, 2013, Target expressly approved Pineville's proposal to build the supermarket in Phase II development. Target's Real Estate Negotiator, Shawn Welk, emailed Pineville's principal Dennis McCarthy, saying, "After much deliberation regarding your proposal, [Target] has agreed to allow [the supermarket] into the center. Please send a proposed OEA Amendment that addresses the changes required for [the supermarket]."

40. When Pineville sought clarification on what sort of amendment Target believed it needed, Welk replied "This is a relatively straight forward amendment[,]" explaining that he believed an amendment would include a revised Site Plan showing the requested and approved changes.

41. Pineville drafted and submitted a simple amendment, and repeatedly asked for comment from Target to move progress forward. Target delayed its response, to Pineville's great dismay and frustration.

42. Finally, on May 28, 2014, Target wrote to Pineville that only a handful of minor changes to the draft amendment were needed. Pineville then made all of Target's requested changes and prepared signature copies.

43. Then, Target asked Pineville to coordinate approval of any storm water drainage capacity with a Target representative named Zach Chamberlain. Pineville did so, and Chamberlain later confirmed on September 2, 2014 that "Target has no issues with the proposed stormwater plans."

44. With Target in full agreement and a finalized amendment approved, Pineville continued its efforts to develop the supermarket site.

45. A year later, Pineville wrote to Target on March 10, 2015, letting them know that they needed to sign the amendment. Welk responded two days later, saying that Target had laid off 1,700 employees, including people that were working on the project, and that he had to review the amendment again with new supervisors. Welk stated that he did not believe this new round of approvals would delay the supermarket development.

46. And Target subsequently reiterated their approval of the supermarket. For example, on June 1, 2015, Target emailed saying, "We're ready to go. Just need to get this papered."

47. Target sent Pineville a revised amendment on July 21, 2015, with minor changes required by Target. Pineville again agreed to all of Target's requested changes.

48. In June 2016, after years of litigation, the New Jersey Superior Court, Appellate Division, unanimously approved the South Brunswick Township Zoning Board's 2010 decision to allow the new supermarket.

49. With the zoning finally approved, Pineville was anxious to begin development. But by August 2016, Target still had not executed the amendment it had proposed. This time, Target explained it had more personnel changes and needed to review the amendment again.

50. But all of the substantive details of Phase II had been approved at that point for years. So Pineville sent the amendment again—with only some minor typos corrected—to be executed.

51. Months later, in December 2016, Target responded that it was bogged down with other projects and needed more time. Then all of January 2017 went by with no signature on the amendment.

F. February 2017: Target Shocks Pineville by Reversing Course and Objecting to the Supermarket Development.

52. Finally, in February 2017, Target reached out explaining that new personnel was involved, and shocked Pineville by asking if final approval was ever given for Pineville's Phase II development plans. Pineville reassured Target that previous personnel had expressly approved of the specific Phase II plans many times, and they had been operating under the assumption for years that the project was approved. Still, Target advised that it was retracting approval, and said it could no longer support the project.

53. Target refused to sign the amendment, and the final consents and approvals required for Pineville's construction of the supermarket.

54. But Target subsequently conceded to Pineville: new personnel was involved; the North Brunswick store built in 2014 was hurting merchandise sales; and its South Brunswick store was not doing well, and it did not want a supermarket in the same shopping center, because that could put pressure on food sales (especially now that the only other grocery store in town had gone out of business).

55. Pineville promptly informed Target that it had no right to disavow its approval on that basis. But Target came up with a false pretext: it did not want a competing food store so it was refusing to sign the finalized paperwork even though the parties had previously completely resolved all issues. Even if that had been a real dispute that was not previously resolved, Target would still have no basis to object on those grounds.

56. Target has no right to "veto" the supermarket development to protect its food sales. It bargained for the exclusions of many uses, but not food stores or supermarkets. And, knowing that time was of the essence and that Pineville was making massive investments to develop Phase II, Target reiterated its approval.

57. Target cannot interfere with Pineville's rights by refusing to now re-approve Phase II development. Nor can Target now object to Pineville's other contingencies, including a zoning consent letter and documentation required for the DOT access permit. Target already approved and gave its consent on those items, and continuing to hold out on a signature materially impairs the rights of Pineville, in clear violation of the OEA.

58. Target further attempted to use their invalid disapproval for their own strategic purposes to "horse trade" with the supermarket, going so far as to approach the supermarket and offer to approve their entry into Heritage Square if the supermarket would later give Target other contractual opportunities. Target has no right to stand in the way of construction or use this as an "opportunity" for their own economic advantage.

59. Target's objection to the supermarket development has thrown Pineville's proposed lease with the supermarket into disarray. If this situation is not resolved quickly, the supermarket may attempt to back out of the proposed lease with Pineville, due to the uncertainty of the situations and the possibility of litigation with a giant like Target.

G. Urgent Need for Relief.

60. This is a key moment in the development project, when all of the years of work and millions of dollars invested by Pineville may be lost due to Target's unreasonable position.

61. In reliance on Target's approvals, Pineville has invested millions of dollars in developing the site for Phase II. Among other things, Pineville spent millions of dollars on

development costs including engineering bills, real estate tax bills, civil and traffic engineering bills, developmental fees, insurance, soil testing, land planning bills, consulting fees, permits and licenses, loan fees, and taxes. And, Pineville paid extensive legal bills associated with the zoning litigation, based on Target's approval and agreement that the site would be zoned for commercial use.

62. Pineville requests preliminary injunctive relief, to enjoin Target from causing imminent and irreparable harm to its businesses and reputation.

63. Among other things, Target should not be permitted to interfere with Pineville's rights by purporting to object to Phase II development, which is permitted under the OEA. Furthermore, Target approved the precise variations needed for the supermarket, which Target asked to be put in an amendment on no fewer than four occasions, including on April 8, 2013, September 2, 2014, June 1, 2015, and July 21, 2015.

64. If Target is permitted to "pull the rug out" on Pineville's project at this late date, after leading Pineville on for years, it will cripple Pineville's development plans and rob the public at large from the long-awaited supermarket.

65. As such, a greater injury would result from refusing an injunction than by granting it.

66. The public has a greater interest in the issuance of an injunction—which will protect not only Pineville, but also a substantial amount of businesses and residents in South Brunswick and across the area.

67. The potential harm to Pineville—the destruction of its businesses and goodwill—far exceeds any harm to Target, who is being asked only to honor the parties' OEA and its own promises and assurances.

68. Pineville is likely to prevail on the underlying merits of the case, as Target's actions are illegal and improper pursuant to the express terms of the OEA, and under the doctrine of promissory estoppel, among other things.

69. The issuance of an injunction enjoining Target from infringing on Pineville's rights—while still permitting Target the agreed-upon oversight of Phase II development—is reasonably suited to abate the threat to Pineville's business operations to develop the supermarket.

COUNT I – DECLARATORY JUDGMENT

70. Pineville incorporates by reference the foregoing paragraphs of this Complaint as though the same were set forth at length herein.

71. Pineville and Target have a genuine and current controversy as to Target's obligation to approve of the Phase II development of the supermarket under the OEA.

72. This case presents actual and justiciable controversies between the parties.

73. These controversies are justiciable because they involve a legal interpretation of the OEA, the parties' rights under the OEA, Target's actions or inactions under the OEA, and any obligations affecting Pineville's Phase II development rights.

74. Both Pineville and Target have a stake in the outcome of the dispute, which, once resolved, will have a direct and immediate effect on the parties.

75. A judicial determination resolving this actual controversy is necessary and appropriate at this time.

WHEREFORE, Pineville requests judgment in its favor and against Target, and hereby prays that this Court enter an Order:

a. Declaring, pursuant to 28 U.S.C. § 2201:

i. The rights and obligations of the parties with respect to the OEA;

ii. That Pineville is entitled to proceed with the supermarket development—both under its agreement with Target, and because of Target's repeated promises and assurances over the years that Pineville reasonably relied upon;

iii. That Target's refusal to give final consents and approvals is unreasonable and a violation of the OEA; and

iv. That Target is deemed to have approved the Phase II development plans, and the final consents and approvals;

b. Preliminarily and permanently enjoining Target from objecting to, and permitting Pineville to proceed with, the supermarket development;

c. For Pineville's attorneys' fees and costs; and

d. For all such other relief as this Court deems appropriate.

COUNT II – BREACH OF CONTRACT

76. Pineville incorporates by reference the foregoing paragraphs of this Complaint as though the same were set forth at length herein.

77. The OEA is a valid agreement that was entered into between Pineville and Target.

78. Pineville has fully performed all of its obligations under the OEA.

79. Pineville is not in default under the OEA.

80. Target has breached its contractual obligations to Pineville, as detailed above, by (among other things): (1) disavowing its approval of Phase II plans even though they knew about, and specifically agreed to, site drawings and numerous plans reflecting the supermarket to

be built; (2) delaying its consideration of Pineville's approval request for Phase II development; and (3) refusing to finalize the other consent and approval documents required for Phase II development, including a zoning consent letter and documents required for the DOT permit application.

81. Despite Pineville's repeated requests that Target honor the provisions of the OEA and provide final paperwork so that it could finalize plans and its lease with the supermarket, Target has refused.

82. As a direct and proximate result of Target's breaches of the OEA, Pineville has sustained, and will continue to sustain, actual damages.

WHEREFORE, Pineville demands judgment in its favor and against Target:

a. For actual damages that Pineville is entitled to recover as a result of Target's breaches;

b. For incidental and consequential damages as permitted by law;

c. For a preliminary and permanent injunction in the form of an Order enjoining Target from objecting to, and permitting Pineville to proceed with, the supermarket development;

d. For interest;

e. For Pineville's attorneys' fees and costs; and

f. For all such other relief as this Court deems appropriate.

COUNT III – PROMISSORY ESTOPPEL

83. Pineville incorporates by reference the foregoing paragraphs of this Complaint as though the same were set forth at length herein.

84. In the alternative to their breach of contract claims above, Target is also barred from dishonoring or rejecting the supermarket's approval as already expressed to Pineville, under the doctrine of promissory estoppel.

85. As detailed above, Target repeatedly represented to Pineville that their Phase II plans to develop the supermarket were approved.

86. Target made these clear and definite promises, as detailed above, with the expectation that Pineville would rely on them.

87. In reasonable reliance on Target's promises to approve the supermarket development, Pineville spent significant resources to begin Phase II development.

88. Target is dishonoring and refusing to abide by its promises, as set forth above.

89. As a direct and proximate result of Pineville's reliance on Target's promises, Pineville has suffered and will continue to suffer a definite and substantial detriment, including damages, as detailed above, in an amount to be determined at trial.

WHEREFORE, Pineville demands judgment in its favor and against Target:

a. For actual damages that Pineville is entitled to recover as a result of Target's breaches;

b. For incidental and consequential damages as permitted by law;

c. For a preliminary and permanent injunction in the form of an Order enjoining Target from objecting to, and permitting Pineville to proceed with, the supermarket development;

d. For interest;

e. For Pineville's attorneys' fees and costs; and

f. For all such other relief as this Court deems appropriate.

COUNT IV – INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

90. Pineville incorporates by reference the foregoing paragraphs of this Complaint as though the same were set forth at length herein.

91. Target has tortiously interfered with Pineville's potential lease deal with a supermarket for the Heritage Square Phase II development site.

92. Pineville had, and has, an ongoing business relationship with the supermarket, and a protectable interest in establishing a contractual lease relationship. Pineville had a reasonable expectation of economic advantage based on this relationship.

93. Target had knowledge of Pineville's relationship with the supermarket and the expectation of economic advantage based on the potential lease.

94. Target has acted with malice, and has intentionally interfered with Pineville's prospective economic advantage to the supermarket lease by the following improper actions, and others detailed further above: i) repeatedly and unnecessarily requesting an amendment, even though it has expressly approved the supermarket's development during Phase II; ii) failing to approve and finalize any paperwork required from the supermarket in light of Pineville's Phase II development plans; and iii) knowing that the supermarket was awaiting final paperwork and withholding a signed amendment and the other contingency approval documents while Pineville continued to pursue its lease relationship with the supermarket.

95. Throughout all of its tortious conduct, Target has acted without privilege or justification in interfering with Pineville's prospective economic advantage.

96. Target's interference with Pineville's prospective economic advantage was willful and wanton and has been carried out with a specific intent to injure Pineville in the conduct of its business.

97. As a direct and proximate result of Target's interference, it is reasonably likely that Pineville will lose the prospective gain of the lease deal with the supermarket.

98. Pineville has suffered, and will continue to suffer, actual, substantial and irreparable damages as a result of Target's tortious conduct.

WHEREFORE, Pineville demands judgment in its favor and against Target:

a. For actual damages that Pineville is entitled to recover as a result of Target's tortious interference;

b. For incidental and consequential damages as permitted by law;

c. For punitive damages to punish Target for its willful and malicious conduct in tortiously interfering with Pineville's prospective economic advantage;

d. For a preliminary and permanent injunction in the form of an Order enjoining Target from objecting to, and permitting Pineville to proceed with, the supermarket development;

e. For interest;

f. For Pineville's attorneys' fees and costs; and

g. For all such other relief as this Court deems appropriate.

COUNT V – BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING

99. Pineville incorporates by reference the foregoing paragraphs of this Complaint as though the same were set forth at length herein.

100. Target breached the covenant of good faith and fair dealing implied in the OEA. For example (but not by way of limitation), Target's breaches include: (1) disavowing its approval of Phase II plans even though they knew about, and specifically agreed to, site drawings and numerous plans reflecting the supermarket to be built; (2) delaying its consideration of Pineville's approval request for Phase II development; and (3) refusing to finalize the other consent and approval documents required for Phase II development, including a zoning consent letter and documents required for the DOT permit application.

101. Target's actions were intentional, malicious, and reflected a wanton and willful disregard of Pineville's rights.

102. Target acted with bad faith and its actions have deprived Pineville of the fruits of the OEA.

103. As a result of Target's conduct, Pineville has suffered, and will continue to suffer, irreparable harm.

WHEREFORE, Pineville demands judgment in its favor and against Target:

a. For actual damages that Pineville is entitled to recover as a result of Target's breaches;

b. For incidental and consequential damages as permitted by law;

c. For a preliminary and permanent injunction in the form of an Order enjoining Target from objecting to, and permitting Pineville to proceed with, the supermarket development;

d. For interest;

e. For Pineville's attorneys' fees and costs; and

f. For all such other relief as this Court deems appropriate.

COUNT VI – NEGLIGENT MISREPRESENTATION

104. Pineville incorporates by reference the foregoing paragraphs of this Complaint as though the same were set forth at length herein.

105. Target made misrepresentations of fact about its approval of Pineville's Phase II development plans as detailed above.

106. Target made these statements to Pineville, which it knew, or should have known, were materially false and misleading in that they contained material misrepresentations and/or failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

107. Target made these representations with the intent to deceive Pineville and block its Phase II development to unlawfully protect food sales in the South Brunswick Target store.

108. Pineville justifiably relied on Target's statements in deciding whether or not to commence and continue Phase II development, and pursue the lease agreement and relationship with the supermarket.

109. As a direct and proximate result of Target's false and/or negligent statements, Pineville suffered damages.

a. For actual damages that Pineville is entitled to recover as a result of Target's unlawful conduct;

b. For incidental and consequential damages as permitted by law;

c. For a preliminary and permanent injunction in the form of an Order enjoining Target from objecting to, and permitting Pineville to proceed with, the supermarket development;

d. For interest;

e. For Pineville's attorneys' fees and costs; and

f. For all such other relief as this Court deems appropriate.

JURY TRIAL DEMANDED

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,

Dated: May 10, 2017

/s/ Stephen M. Orlofsky
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Attorneys for Plaintiff,
Pineville Brunswick Development Associates L.P.

CERTIFICATION PURSUANT TO LOCAL RULE 11.2

The undersigned certifies that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: May 10, 2017

Respectfully submitted,

/s/ Stephen M. Orlofsky
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CERTIFICATION PURSUANT TO LOCAL RULE 201.1(d)(3)

The undersigned certifies that for the matter in controversy, the damages recoverable exceed the sum of $150,000 exclusive of interest and costs and any claim for punitive damages.

Dated: May 10, 2017

Respectfully submitted,

/s/ Stephen M. Orlofsky
BLANK ROME LLP
A Pennsylvania LLP
Stephen M. Orlofsky
New Jersey Resident Partner
301 Carnegie Center, 3rd Floor
Princeton, NJ 08540
Phone: (609) 750-7700
Fax: (609) 750-7701

VERIFICATION

I, Dennis McCarthy, Vice President of Pineville Brunswick Development Associates LLC, which is the general partner of Plaintiff Pineville Brunswick Development Associates L.P., do hereby verify and affirm that the facts set forth in the foregoing Verified Complaint are true and correct to the best of my knowledge, information, and belief. I am authorized to make and am making this Verification on behalf of the Plaintiff.

This Verification is made subject to the penalties of 28 U.S.C. § 1746 for unsworn falsification to authorities.

DENNIS McCARTHY

Dated: May 10, 2017